

### REMARKS

Reconsideration and allowance of the above-identified application are now respectfully requested in view of the amendments and remarks set forth herein. Claims 1-20, 22-32, 35-38 and 40-44 are pending, wherein claims 1, 11, 20, and 44 have been amended.

In the Office Action, the Examiner allowed claims 32, 35-38, 40-43 and 45-62, objected to claims 10 and 21-31, and rejected claims 1-9, 11-20 and 44. Applicant will address the Examiner's rejections and objections in the order set forth by the Examiner in the Office Action.

The Examiner rejected claims 1-4, 20, and 44 under Section 102(b) as being anticipated by U.S. Patent No. 6,113,522 to *Fontenot*, which discloses an "Exercise Apparatus." (*Title*) "It is an object of . . . [*Fontenot*] to provide an exercise apparatus which does not rely on weights, pulleys, and stretchable members." (Col. 3, lines 5-7)(emphasis added). Further, the exercise apparatus of *Fontenot* "does not rely on heavy weights, cables or elastic bands." (Col. 2, lines 22-23)(emphasis added). An element of independent claim 44 is "a cable and pulley system linked to the resilient elongate rod." Since the invention of *Fontenot* neither teaches nor suggests an exercise device having "a cable and pulley system" and, as identified above, expressly teaches away from the inclusion of "a cable and pulley system," Applicants respectfully submit that *Fontenot* neither teaches nor suggests the invention claimed in Independent claim 44.

Turning to claims 1-4 and 20, *Fontenot* describes the inclusion of a "containment housing 74, which functions to house a portion of the principal exercise means . . . [, such as] the flexible member 72 . . . [that is] connectedly engaged to the second principal portion of the exercise

means . . . [, such as] a pendulum bar 80." (Col. 7, lines 6-19). When using the *Fontenot* exercise devices, "[t]he user should position the pendulum bar 80 above and slightly behind the head of the user . . . [with] the upper body at approximately 25 degrees forward when grasping the pendulum bar 80." (Col. 7, 26-30). A user of the *Fontenot* exercise device grasps the bar connected to the "flexible member 72."

In contrast, independent claims 1 and 20 recite that the "variable resistance system" or "resistance selector system" is "configured to vary a mechanical advantage usable to flex the resilient elongate rod" to vary the amount of resistance presented by the resilient elongate rod for use in exercise. *Fontenot* neither teaches nor suggests the inclusion of a variable resistance system "configured to vary a mechanical advantage usable to flex the resilient elongate rod." A user of the exercise device taught in *Fontenot* "pulls and rotates the pendulum bar 80 against the resistance or the ball joint 82, and the natural resistance of the flexible member 72 in association with resistance offered by the vertical post member resistance cylinder 69." (Col. 7, lines 21-25) Neither the ball joint nor the resistance cylinder varies the "mechanical advantage usable to flex the resilient elongate rod." Because *Fontenot* does not teach or suggest the invention claimed in independent claims 1 and 20, applicant respectfully submits that independent claims 1 and 20, and so dependent claims 2-10 and 21-31 are allowable over the art of record.

The Examiner rejected claims 1, 5-9, and 11-19 under Section 102(b) as being anticipated by U.S. Patent No. 6,082,346 to *Andrew*, which discloses a "Compound Bow Cams and Modules." (*Title*). *Andrew* discloses "a compound bow with primary cams and cam modules that prevent over-draw of the bow." (Col. 2, lines 31-32). The bow includes "a riser 12 with a

pair of limbs 14,16 attached to and extending from opposed ends of the riser 12 with a cam assembly 18 carried by each limb 14,16 adjacent to the free end 15,17 of each limb 14,16." (Col. 3, lines 7-10).

Independent claim 1 cites "a single resilient elongate rod linked to the support frame." Applicants respectfully submit that *Andrew* neither teaches nor suggests an exercise machine that includes "a single resilient elongate rod linked to the support frame." As illustrated in Figure 1 of *Andrew*, two limbs are connected to the "riser," not one. Because *Andrew* does not teach or suggest the invention claimed in independent claim 1, Applicants respectfully submit that independent claim 1, and so dependent claims 5-9 are allowable over the art of record.

Turning to independent claim 11, this independent claim cites "at least one resilient elongate member having a first end, a second end, and an intermediate portion, wherein the intermediate portion is linked to the support frame." Applicants respectfully submit that *Andrew* neither teaches nor suggests an exercise machine where the "at least one resilient elongate members . . . [is linked to the support frame by] the intermediate portion." In contrast, and as illustrated in Figure 1 of *Andrew*, the ends of the two limbs are connected to the "riser," not the "intermediate portion[s]". Because *Andrew* does not teach or suggest the invention claimed in independent claim 11, Applicants respectfully submit that independent claim 11, and so dependent claims 12-19 are allowable over the art of record.

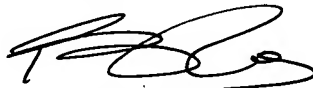
Claims 10 and 21-31 were objected to as being dependent upon a rejected base claim. In view of the above discussion with respect to independent claims 1 and 20, Applicants

respectfully submit that dependent claims 10 and 21-31, which dependent from independent claims 1 and 20, respectively, are allowable.

In view of the foregoing amendments and remarks, applicant submits that the application is now in condition for allowance. Prompt favorable action is, therefore, courteously requested. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 24 day of January, 2006.

Respectfully submitted,



FRASER D. ROY  
Attorney for Applicants  
Registration No. 45,666  
Customer No. 022913

FDR:kc  
FDR0000000810V001